

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 18, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2013AP2163-CR

Cir. Ct. No. 2012CM3957

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

VENCEREMOS CRUMP,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Milwaukee County: MEL FLANAGAN, Judge. *Affirmed.*

¶1 KESSLER, J.¹ Venceremos Crump appeals the judgment of conviction, following a guilty plea, of one count of misdemeanor battery. Crump

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2011-12). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

also appeals from the order denying his postconviction motion for resentencing. We affirm.

BACKGROUND

¶2 On July 18, 2012, Crump was charged with one count of misdemeanor battery, domestic abuse, and one count of disorderly conduct, domestic abuse. According to the complaint, on July 16, 2012, Tumekia Armstead was picking up the son she shared with Crump from daycare, when she unexpectedly saw Crump at the daycare center. Crump followed Armstead back to her car, climbed into the rear seat behind the driver's seat, and demanded a ride. Crump was seated next to his son, who was in a child car seat. Armstead told police that as she was driving, Crump took his son out of the car seat and placed the child on his (Crump's) lap, began "yelling and cursing," and threatened to break Armstead's neck. Crump also wrapped his arm around Armstead's neck, placing her in a chokehold, and pulled Armstead's head backwards. This caused Armstead's glasses to come off as she was driving, and caused Armstead to swerve. Crump was subsequently arrested and charged.

¶3 Pursuant to a plea agreement, Crump plead guilty to one count of misdemeanor battery and the disorderly conduct charge was dismissed and read-in.

¶4 At sentencing, the circuit court heard statements from the State, Crump's counsel and Crump himself. The circuit court also considered a victim impact statement submitted by Armstead, in which Armstead described a history of domestic abuse between Crump and herself. The circuit court sentenced Crump to nine months' imprisonment, stayed, and eighteen months' probation.

¶5 Crump filed a postconviction motion for resentencing, arguing that the circuit court did not properly explain its reasoning for imposing Crump’s particular sentence. The circuit court denied the motion. This appeal follows. Additional facts will be developed as relevant to the discussion.

DISCUSSION

¶6 On appeal Crump maintains his contention that the circuit court failed to articulate its reasons for imposing Crump’s particular sentence. We disagree.

¶7 It is well-settled that a circuit court exercises discretion at sentencing, *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197, and that “[t]he [circuit] court has great latitude in passing sentence[.]” *State v. J.E.B.*, 161 Wis. 2d 655, 662, 469 N.W.2d 192 (Ct. App. 1991). Our review is limited to determining whether there was an erroneous exercise of discretion. *State v. Larsen*, 141 Wis. 2d 412, 426, 415 N.W.2d 535 (Ct. App. 1987). There is a “strong public policy against interference with the sentencing discretion of the [circuit] court and sentences are afforded the presumption that the [circuit] court acted reasonably.” *State v. Harris*, 119 Wis. 2d 612, 622, 350 N.W.2d 633 (1984).

¶8 The circuit court is to consider three primary factors in passing sentence: (1) the gravity of the offense, (2) the defendant’s character, and (3) the need for protection of the public. *Elias v. State*, 93 Wis. 2d 278, 284, 286 N.W.2d 559 (1980). The weight to be attributed to each factor “is a determination which appears to be particularly within the wide discretion of the sentencing judge.” *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Thus, “[i]f the facts are fairly inferable from the record, and the reasons indicate the

consideration of legally relevant factors, the sentence should ordinarily be affirmed.” *McCleary v. State*, 49 Wis. 2d 263, 281, 182 N.W.2d 512 (1971).

¶9 Here, the circuit court did consider the primary sentencing factors in imposing Crump’s sentence. In its order denying Crump’s postconviction motion, the circuit court described Crump’s behavior towards Armstead as “aggravated.” See *State v. Fuerst*, 181 Wis. 2d 903, 915, 512 N.W.2d 243 (Ct. App. 1994) (circuit court has additional opportunity to explain sentence during postconviction proceedings). The circuit court noted “the violent nature of [Crump’s] acts, the presence of his young child and the dangerous situation he placed himself, the victim, his son and the public in by causing the victim to swerve.”

¶10 The circuit court also considered Crump’s character, noting that based on the victim impact statement, Crump had a history of domestic abuse. The court also acknowledged Crump’s inability to take responsibility for his actions, telling Crump at the sentencing hearing that he “[has] issues that [he] is in denial about.” The court noted that Crump “made numerous conflicting or challenging statements about the facts in his allocution to the court,” suggesting that Crump “was not taking responsibility for his actions or that there were other issues going on ... affecting his ability to understand what he had done.” The court also acknowledged Crump’s prior convictions for marijuana possession.

¶11 As to the final factor, the court considered the need to protect both the public and Armstead by acknowledging Crump’s need for rehabilitation. The circuit court acknowledged the danger to the public caused by Armstead’s swerving—a direct result of Crump’s behavior. The court also stated that the sentence provides “an opportunity to address [Crump’s] rehabilitative needs on probation but also to punish him for his extremely dangerous behavior which

could have had far more devastating consequences for everyone involved and innocent bystanders.”

¶12 The circuit court considered the relevant sentencing factors and properly exercised its discretion in sentencing Crump. Accordingly, we affirm.

By the Court.—Judgment and order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

